THE HYDERABAD BORSTAL SCHOOLS ACT, 1956.

No. XV of 1956.

(Received the assent of the President on 10th June 1956; assent first published in the Hyderabad Gazette Extraordinary on the 14th June, 1956).

Act to provide for the establishment of Borstal Schools in the State of Hyderabad.

WHEREAS it is expedient to provide for the establishment of Borstal Schools in the State of Hyderabad; Preamble.

BE it enacted in the Seventh Year of Our Republic as follows :—

1. (1) This Act may be called the Hyderabad Borstal Schools Act, 1956. Short title, extent and commencement.

(2) It extends to the whole of the State of Hyderabad.

(3) This section shall come into force at once ; the rest of this Act or any provision thereof shall come into force in any area on such date as the Government may by notification in the Jarida specify.

2. In this Act, unless the context otherwise refers— Definitions.

(a) "Borstal School" means an institution in which young offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime ;

(b) " Code " means the Code of Criminal Procedure, 1898 (Act V of 1898) ;

(c) " Inspector-General " means the Inspector-General of Prisons and includes any officer appointed by the Government to perform all or any of the duties imposed by this Act on the Inspector-General ;

(d) " prescribed " means prescribed by rules made under this Act.

3. (1) For the purposes of this Act, the Government may establish one or more Borstal Schools. Establishment of Borstal Schools.

(2) For every Borstal School, a visiting committee shall be appointed in such manner as may be prescribed.

Application of the Hyderabad Prisons Act, 1954, and the Hyderabad Prisoners Act, 1954.

4. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the Hyderabad Prisons Act, 1954, and the Hyderabad Prisoners Act, 1954, and the rules framed thereunder shall apply in the case of every Borstal School established under this Act as if it were a prison and the inmates thereof prisoners.

Court may pass order for detention in a Borstal School.

5. Where an offender is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or is liable to imprisonment for failure to furnish security under Chapter VIII of the Code, whether any previous conviction is proved against him or not, and it appears to the Court—

(a) that the offender is not less than sixteen and not more than twenty-one years of age; and

(b) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that he should be subjected to detention for such term and under such instruction and discipline as appears most conducive to his reformation, it shall be lawful for the Court, if empowered in this behalf, to pass, in lieu of a sentence of transportation or imprisonment, or of an order of imprisonment under section 123 of the Code, an order for the detention of the offender in a Borstal School established under this Act or subject to the provisions of section 13, in a Borstal School in any other State, for such term, not being less than three years and not more than five years, as the Court, subject to rules made under this Act, thinks fit:

Provided that before passing such an order the Court shall give an opportunity to the parents or guardians of the said offender to be heard and shall consider any report or representation which may be made to it as to the suitability of the case for treatment in such Borstal School, and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid.

Power of Government to exempt.

6. The Government may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Borstal School.

Courts empowered to pass order for detention.

7. The powers conferred on Courts by this Act shall be exercised only by—

(a) the High Court,

(b) a Court of Session,

(c) a District Magistrate,

(d) the Chief Magistrate, City Magistrate's Court,

or

(e) a Magistrate specially empowered in this behalf by the Government,

and may be exercised by such Courts whether the case comes before them originally or on appeal or in revision:

Procedure when Magistrate is not empowered to pass an order under this Act.

8. (1) When any Magistrate not empowered to pass an order for detention under this Act is of the opinion that an offender who has been found guilty by him or who has failed to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code, is a proper person to be detained in a Borstal School, he may, without passing any order, record such opinion and submit his proceedings and forward the offender to the District Magistrate to whom he is subordinate.

(2) The District Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act.

(3) The District Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further inquiry (if any) as he may think fit and may pass such order for the detention of the offender in a Borstal School, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

Limitation on powers conferred by section 5.

9. Any offender detained in a Borstal School for failure to furnish security when ordered to do so under section 106 or section 118 of the Code, shall be released on furnishing such security or on the passing of an order under section 124 of the Code.

Transfer from prison to Borstal School.

10. (1) If the Inspector-General is satisfied that a person undergoing transportation or imprisonment in consequence of a sentence passed under any law or undergoing imprisonment under an order made under section 123 of the Code, for failure to give security being within

the limits of age within which persons may be ordered to be detained in a Borstal School, by reason of his criminal habits or tendencies, or association with persons of bad character, might with advantage be detained in a Borstal School, the Inspector-General may report the case to the Government and if the Government, after making such inquiry as it may deem proper or as may be prescribed, is satisfied that the prisoner should for the reasons mentioned in the report, be detained in a Borstal School, it may by order in writing direct such person to be transferred from the prison to a Borstal School established under this Act or, subject to the provisions of section 13, to a Borstal School in any other State and to be detained in such School, in lieu of the unexpired residue of his sentence, or of the period of imprisonment which he is liable to undergo for failure to give security, as the case may be, for such period as together with the period of transportation or imprisonment already undergone will not exceed the maximum period for which such person could have been ordered to be detained by a Court under section 5 :

Provided that such person shall not be directed to be detained in a Borstal School for a period which including the period of imprisonment or transportation undergone exceeds the period of imprisonment or transportation to which such person has been sentenced or the period of imprisonment which he is liable to undergo for failure to give security, as the case may be.

(2) A person transferred to a Borstal School under sub-section (1) shall upon transfer to such school be deemed to be an offender ordered to be detained by a Court under the provisions of section 5 and the provisions of this Act shall apply to such person accordingly.

Transfer of incorrigibles, etc., to prisons.

11. Where an offender detained in a Borstal School escapes or is reported to the Government by the Inspector-General to be incorrigible or to exercise or to be likely to exercise a bad influence on the other inmates of the School, or to be more than twenty years of age, or where a licence granted under section 15 is revoked by the Government under clause (2) of the proviso to sub-section (1) of section 16 or is, in the opinion of the Government, otherwise unsuitable for training in a Borstal School, the Government may direct the offender to be produced before the competent Court with a report, and if the Court, after making such inquiry as it may deem proper, is satis-

fied about the accuracy of the report, it may commute the unexpired residue of the term of detention to such term of imprisonment of either description as it may determine, but in no case exceeding the shorter of the following two periods, namely :—

(a) the unexpired residue of the term of detention, or

(b) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal School or ordered to be transferred to and detained in such school by the Government.

Government to determine the Borstal School in which a person shall be detained and may order removal.

12. (1) Every offender ordered to be detained in a Borstal School shall be detained in such Borstal School as the Government may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained :

Provided that, if accommodation in a Borstal School is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of a prison as the Government may direct until he can be sent to a Borstal School, and the period of detention so undergone shall be treated as detention in a Borstal School.

(2) The Government may order the removal of any offender from any one Borstal School to any other Borstal School established under this Act or to a Borstal School in any other State provided that the whole period of his detention in a Borstal School shall not be increased by such removal.

Power to order detention in or removal of offenders to, a Borstal School in another State.

13. (1) No order for the detention in or transfer or removal to a Borstal School in any other State shall be passed except with the previous concurrence of the officer in charge of such Borstal School and unless the Government of the said state under any law in force therein or by general or special order, has consented or is empowered, to receive such offender for detention in such Borstal School.

Power to accept transfers of offenders from another State to a Borstal School in the State.

(2) The officer in charge of a Borstal School established under this Act may, subject to the rules made in this behalf, give effect to any order for the detention therein of any person passed by any authority under any enactment in force in any other State. A person detained in such Borstal School under this provision shall be deemed to be an offender ordered to be detained under the provisions of section 5 and the provisions of this Act shall apply to such person accordingly.

Removal of persons detained to civil hospital in the State for medical treatment.

14. (1) If an offender detained in a Borstal School is suffering from any illness and the Inspector-General is satisfied that it is not possible to render to him proper medical care or treatment in the school, the Inspector-General may provide for the removal of such offender to any civil hospital in the State for the purpose of undergoing medical treatment and for his return to the school after such treatment is undergone.

(2) The period during which an offender is absent from a Borstal School under sub-section (1) shall, for the purposes of computing his term of detention in the school, be deemed to be part of that detention.

Power to release on licence.

15. (1) Subject to the prescribed conditions, the Inspector-General may on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal School, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal School and grant him a written licence in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such—

(a) officer of Government,

(b) secular institution,

(c) religious society, or

(d) responsible person.

as may be approved by the Inspector-General and willing to take charge of the offender.

(2) The Inspector-General may, subject to the prescribed conditions, discharge any offender who had been previously granted a licence but whose licence was subsequently revoked under section 16 and grant him a fresh

written licence and in such case the provisions of this Act shall apply as if such fresh licence had been granted under sub-section (1).

(3) A licence under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal School, unless sooner revoked.

(4) The period during which an offender is absent from a Borstal School during the continuance of a licence granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

Revocation of licence.

16. (1) Subject to the prescribed conditions, the Inspector-General may at any time and in the case of a request made by the institution, society or person, under whose supervision and authority the offender has by licence been permitted to live shall, after considering the report of the Investigating Committee submitted to him under section 20 revoke a licence granted under section 15, and upon such revocation the offender shall be detained in a Borstal School until the expiry of the term for which he was ordered to be detained in such school:

Provided that, if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal School, the Inspector-General shall forward the report of the Investigating Committee to the Government and the Government may—

(i) direct the Inspector-General to revoke the licence as provided in this sub-section, or

(ii) itself revoke the licence and direct the Inspector-General to produce the offender before the competent Court for commuting the unexpired residue of detention of the offender to a term of imprisonment as provided in section 11.

(2) If an offender removes himself from the supervision of the institution, society or person under which he was by licence permitted to live, his licence shall be deemed to have been revoked from the date on which he has so removed himself.

(3) On the revocation of a licence under sub-section (2), the period beginning from the date on which the offender removed himself from supervision till the date on which he is arrested shall, subject to the provisions of section 18, be excluded in computing the period for which he has been ordered to be detained in a Borstal School.

Subsequent supervision.

17. (1) When the Inspector-General and the Visiting Committee report that the conduct or progress of any offender detained in a Borstal School has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the Government may direct the Inspector-General to produce the offender before the competent Court together with the report and if the Court after making such inquiry as it may deem proper is satisfied about the accuracy of the report, it may direct that the offender shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector-General, subject to the rules made under this Act, may direct.

(2) The Government may, after considering the report of the Investigating Committee forwarded to it under section 20, direct the offender to be produced before the competent Court together with the report and the Court may, after satisfying itself about the accuracy of the report, direct that the offender who is under supervision in accordance with sub-section (1) shall—

(a) again be detained in a Borstal School for such period as it may think fit, or

(b) if the Court is satisfied that the conduct of the offender has been such that he is unfit for detention in a Borstal School, undergo imprisonment of such description and for such period as it may direct:

Provided that the total period of supervision, detention and imprisonment, under this section shall not exceed one year.

Period of detention.

18. No person shall be detained in a Borstal School after he has, in the opinion of the Government, attained the age of twenty-three years, or, if in any particular case the Government so directs, after he has attained the age of twenty-five years.

Discharge from Borstal School.

19. The Government may at any time order any person detained in a Borstal School to be discharged from such school, either absolutely or on such condition as it thinks fit to impose.

Investigating Committee to investigate into complaints against offenders discharged on probation, etc.

20. (1) The Government may, by notification in the Jarida, appoint an Investigating Committee.

(2) The Inspector-General may, by an order in writing, require any offender—

(a) who is discharged on licence under section 15 or who is placed under supervision under section 17, and who is reported by the authority, institution, society or person under whose supervision he has been permitted to live or has been directed to remain, to be of bad behaviour, or

(b) who has broken any of the conditions of the licence granted to him under section 15, to appear before the Investigating Committee within such time and at such place as may be specified in the order.

(3) The Investigating Committee shall examine the offender and after making such inquiry as it thinks fit into his conduct submit its report to the Inspector-General. If the Investigating Committee report that the conduct of such offender has been such that he is unfit for further detention in a Borstal School and in every case where an offender had been directed to remain under supervision under section 17, the Inspector-General shall forward a copy of the report of the Investigating Committee to the Government.

(4) The offender shall, during the period, of the proceedings under this section, be detained in a Borstal School or in a special ward, or such other suitable part of a prison as the Inspector-General may by general or special order direct.

(5) If the offender fails to appear before the Investigating Committee in accordance with the order made under sub-section (2) or escapes while detained under sub-section (4), he may, on the requisition of the Inspector-General or any officer authorised by him in this behalf, be arrested by any officer of police without a warrant and without any order of a Magistrate and brought before the Investigating Committee or sent under custody to the place of detention under sub-section (4), as the case may be.

(6) The period beginning from the date on which the order under sub-section (2) is passed by the Inspector-General and ending with the day on which an order is passed by the Court under section 16 or 17, shall be excluded in computing the total term of his detention in a

Borstal School or in computing the period of one year referred to in section 17.

Arrest of offender escaping from Borstal School, or escaping from supervision.

21. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal School or has escaped from a civil hospital to which he was removed for treatment under section 14 or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain or has been permitted to live by licence under section 15, or has committed a breach of any of the conditions imposed under section 19 may be arrested by any officer of police without a warrant and without the order of a Magistrate and sent back to the Borstal School or to the civil hospital or to such authority, institution, society or person, as the case may be.

Power to make Rules.

22. (1) The Government may make rules for the regulation and management of any Borstal School and for the carrying into effect of the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine—

(a) the control and management of Borstal Schools established under this Act;

(b) the appointment, powers and duties of officials in such schools;

(c) the constitution, powers and duties of Visiting Committees;

(d) the classification, control, discipline, training, struction and treatment of offenders ordered to be detained in a Borstal School and for the temporary detention of such offenders until arrangements can be made for sending them to such school;

(e) the regulation of visits to, and communication with offenders detained in such school;

(f) the restriction or prohibition of the supply to, or possession by, offenders detained in such school of any specified articles or kinds of articles;

(g) the period for which offenders or any class or classes of offenders may, within the limits fixed by this Act be ordered to be detained in such school;

(h) the class or classes (if any) of offenders who shall not be ordered to be detained in such school;

(i) the removal of offenders to Borstal Schools in other States and the receiption and detention in a Borstal School established under this Act of offenders transferred from other States;

(j) the form and conditions of licences granted under section 15;

(k) the supervision of offenders after the expiration of the term of their detention;

(l) the transfer of incorrigible offenders from a Borstal School to prison;

(m) the conditions on which an offender may be discharged under section 19;

(n) the constitution, procedure, powers and duties of the Investigating Committee.

(3) All rules made under this section shall be subject to the condition of previous publication and shall be laid before the Legislative Assembly.

Removal of disqualification.

23. The Government may, on the recommendation of the Inspector-General and the Visiting Committee, or otherwise remove any disqualification incurred by an offender ordered to be detained in a Borstal School on account of such detention.

Appeal or revision.

24. For the purposes of appeal and revision under the Code, an order of detention under section 5 of this Act shall be deemed to be a sentence of imprisonment for the same period.

Amendment of the Hyderabad Children Act, XXXII of 1951.

25. In section 38 of the Hyderabad Children Act, 1951—

(1) for the marginal note to that section the following marginal note shall be substituted; namely:—

"Discharge and transfer."; and

(2) after sub-section (2) the following sub-sections shall be inserted, namely:—

"(3) (a) If the Government is satisfied that the continued detention in a certified school of a juvenile offender who has attained the age of sixteen years is not conducive to discipline or that for any other reason, he should be transferred to a Borstal School established under the Hyderabad Borstal Schools Act, 1955, it may, by order, direct that such juvenile offender shall be transferred to such Borstal School.

(b) Where the Government is of opinion that a boy or girl over the age of sixteen years who has been released on licence and who has contravened any of the conditions thereof should not return to a certified school, it may, by order, direct that such boy or girl shall be transferred to a Borstal School :

Provided that the total period of detention of such juvenile offender or boy or girl shall not be enhanced by such transfer.

(4) Upon the transfer of such juvenile offender or boy or girl to a Borstal School under sub-section (3), all the provisions of the Hyderabad Borstal Schools Act, 1956, shall apply to him as if he had been originally ordered to be detained in a Borstal School established under that Act.

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